

Application Serial No. 10/765,321  
Response filed December 23, 2005  
Response to Office Action dated November 11, 2005

### **REMARKS**

This is being filed in response to an Office Action dated November 11, 2005. Claims 1-9 are pending in this application, all of which stand rejected. Claim 1 is independent. Applicants respectfully request reconsideration in light of the remarks set forth herein and maintain that this application is in condition for allowance.

### **Brief Remarks Regarding The Invention**

Prior to addressing the rejections discussed in the Office Action, Applicants take this opportunity to set forth the following brief remarks in connection with an embodiment of their invention, which is directed to a filter cap for an open-top cage, the filter cap having a rigid filter frame, a rigid filter retainer and a chew shield. The filter frame includes a perforated top wall and side walls extending from the top wall, forming an open bottom. The filter retainer fits on the filter frame and substantially covers the top wall of the filter frame, and has an upper surface having perforations substantially aligned with the perforations of the top wall when mounted thereon. The filter retainer further comprises side walls extending down from the upper surface, also forming an open bottom. The chew shield has perforations that are coextensive with the perforations of the filter frame and is secured to the underside of the filter frame, covering substantially the entire area of the open top of the cage. Therefore, the chew shield may protect the filter cap from damage by the animal by providing a physical barrier thereto.

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### **Rejection of the Claims**

In the Office Action, claims 1-8 were rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 6,588,373 to Strzempko et al. (Strzempko) and claim 9 was rejected under 35 U.S.C. §103 as being unpatentable over Strzempko in view of U.S. Patent No. 4,690,100 to Thomas. Applicants respectfully submit that Strzempko fails to teach or suggest every element of independent claim 1, and therefore fails to anticipate claims 1-8 and further fails to render claim 9 unpatentable either alone or in combination with Thomas.

Applicants respectfully submit that Strzempko is directed toward a cage top having a cover piece with an opening which is covered by a closure piece having air passage arrays. An air filter is placed on the closure piece, and a filter guard is placed on the air filter. The closure piece, air filter, and the filter guard are all flat, planar pieces stacked on top of each other, the combination of which fits within the depth of the cage top, such that the filter guard is flush with the top surface of the cage top.

In contrast, independent claim 1 recites a filter frame as well as a filter retainer having side walls extending from the perforated top wall, forming open bottom ends. Strzempko does not teach or suggest such side walls or an open bottom end for any of the three components discussed above, which the Examiner asserts discloses the invention as claimed. Rather, because Strzempko is directed to flat, planar portions which lay flat

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upon each other until it is flush with the cage top, Strzempko not only fails to teach or suggest the invention as claimed, but rather, teaches away from the invention.

Furthermore, Strzempko fails to teach or suggest a chew shield that is "secured to the undersurface of said filter frame" as recited in independent claim 1 to prevent the filter cap from being damaged by the encaged animal. As also recited in claim 1, the chew shield substantially covers the interior dimensions of the open top of the cage, and has perforations substantially coextensive with the perforations of the filter frame. Strzempko fails to teach or suggest such a structure. The "chew shield" of Strzempko surrounds the perimeter of the "filter frame", and is not "secured to the undersurface of said filter frame", as recited in claim 1. Rather, the "filter frame" of Strzempko is exposed from the bottom and is therefore vulnerable to the encaged animal, which is a need met by the invention as claimed. Furthermore, Strzempko does not mention or suggest the need for protecting the filter frame from the encaged animal, and therefore, there is no motivation to modify Strzempko in order to provide a chew shield as claimed.

For at least the reasons set forth above, Applicants respectfully submit that independent claim 1 and claims 2-8 depending therefrom are patentable over Strzempko. The dependent claims will not be addressed herein individually in the interest of brevity.

Applicants respectfully submit that Thomas also fails to remedy the shortcomings of Strzempko and therefore, Strzempko in view of Thomas fails to render the invention unpatentable. Similar to Strzempko, Thomas fails to teach or suggest a filter frame and a filter retainer having side walls forming open bottom ends. Indeed, Thomas fails to teach

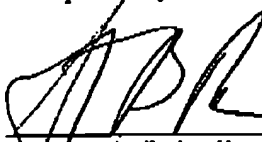
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or suggest a filter retainer entirely. Furthermore, Thomas fails to teach or suggest a chew shield and does not mention or suggest the need for protecting the filter from the encaged animal. Therefore, Strzempko in combination with Thomas also fails to render unpatentable the invention as claimed. Accordingly, Applicants respectfully request withdrawal of the rejections set forth in the Office Action.

Applicants respectfully submit that all outstanding requirements have been addressed and are now either overcome or moot. Favorable consideration and prompt allowance of this application is respectfully requested. In the event that there are any questions, or should additional information be required, please do not hesitate to contact Applicants' attorney at the number listed below.

No fee is deemed necessary in connection with the filing of this Response. However, if any fee is now or hereafter required, the Examiner is hereby authorized to charge the amount of such fee(s) to Deposit Account No. 19-4709.

Respectfully submitted,



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